

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PARNELL COLVIN,
Plaintiff,
vs.
M.J. DEAN CONSTRUCTION,
INC.,
Defendant.

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) CASE NO.:
) 2:20-cv-01765-APG-EJY
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**CERTIFIED
TRANSCRIPT**

VIDEO CONFERENCE DEPOSITION OF JOHN THOMASON
LAS VEGAS, NEVADA
THURSDAY, JULY 29, 2021

REPORTED BY: JACKIE JENNELLE, RPR, CCR #809
JOB #416110

1 **sir?**

2 A. 5055 West Patrick Lane, Suite 101.

3 **Q. And who do you work for?**

4 A. M.J. Dean Construction.

5 **Q. How long have you worked there?**

6 A. Since 1995.

7 **Q. And what is your current title?**

8 A. Director of field of operations.

9 **Q. And could you tell me what that entails,**
10 **what your job entails?**

11 A. I am to create schedules, work with the
12 owners, manage the construction sites, manage the
13 superintendents and the supervision.

14 **Q. And how long have you had that title,**
15 **director of field operations?**

16 A. Four years.

17 **Q. And prior to that job, did you have another**
18 **job at Dean Construction?**

19 A. Yes, sir.

20 **Q. And what was that?**

21 A. Superintendent.

22 **Q. And what was the job of superintendent?**

23 A. To manage specific jobs.

24 **Q. Is it fair to say that you worked your way**
25 **up to more responsible positions during the 26 years**

1 A. Yes, sir.

2 Q. As I understand it in layman's terms, a
3 superintendent essentially runs one project?

4 A. Yes, sir.

5 Q. And your current job of director of field
6 operations, you're in charge of all the projects
7 that Dean has; is that right?

8 A. Right now I'm in charge of one project.

9 Q. What project is that?

10 A. The Madison Square Garden Sphere.

11 Q. Okay. But I thought you said as director
12 of field operations, I thought you said you were in
13 charge of all the projects?

14 A. Before the Madison Square Garden Sphere I
15 was in charge of all projects. Once the Sphere
16 started, I was asked to be the superintendent for
17 that particular project.

18 Q. And is that because this is a big project,
19 the MSG Sphere?

20 A. Yes, sir.

21 Q. All right. And when did that project
22 start?

23 A. November, December 2018.

24 Q. And that project is -- the owner of that
25 Dolan, who owns Madison Square Garden?

1 BY MR. MARKS:

2 Q. Field?

3 A. Yes, sir.

4 Q. Okay. Now, on the Sphere project, did you
5 hire Parnell Colvin?

6 A. Yes, sir.

7 Q. Okay. And you're saying you hired him but
8 didn't know him prior?

9 A. Yes.

10 Q. Did you have a way of checking his
11 experience and what projects he had been on?

12 A. No.

13 Q. Okay. Now, was it brought to your
14 attention by Parnell that he was called the N-word
15 by Kevin Gutierrez?

16 A. I'm sorry. Could you please repeat that?

17 Q. At some point in time on the project, was
18 it brought to your attention by Parnell Colvin that
19 he was called the N-word by Kevin Gutierrez?

20 A. Parnell and AECOM Hunt George brought it to
21 my attention. But -- that's it.

22 Q. And who is George from Hunt?

23 A. He's a safety director.

24 Q. Okay. And is there a policy at Dean, an
25 anti-discrimination policy at Dean?

1 Q. To who?

2 A. W&W Steel.

3 Q. Okay. But the week pause was in April --
4 was the week pause in March or April of 2020?

5 Do you recall?

6 A. Due to the COVID shutdown?

7 Q. Yeah.

8 A. It was in mid-April.

9 Q. Okay. After the week, Dean rehired people,
10 correct?

11 A. We were given direction by Madison Square
12 Garden and AECOM Hunt on what we could finish and
13 what we could do. And we had to bring some of the
14 guys back, yes, sir.

15 Q. And do you know how many employees you
16 brought back?

17 A. Approximately 200.

18 Q. And are you still doing construction, as we
19 speak, right now in July of '21?

20 A. M.J. Dean?

21 Q. Yes.

22 A. Yes, sir.

23 Q. So after the week pause in April of '20,
24 Dean continued to do construction for the rest of
25 '20. You were planning on doing construction for

1 all of 2021 and into the first quarter of 2022,
2 correct?

3 A. Yes.

4 Q. So that means that from April of 2020 to
5 the end of the first quarter of 2022, there would be
6 approximately two years of construction, correct?

7 A. For M.J. Dean Construction?

8 Q. Is that right?

9 A. For M.J. Dean concrete construction?

10 Q. Yeah.

11 A. Yes, sir.

12 Q. So how -- and how many employees does Dean
13 have out there right now?

14 A. 35.

15 Q. Okay. And what type of employees are they?

16 A. Carpenters, laborers, and finishers.

17 Q. Now, in April of 2020, who made the
18 decision for that week who to lay off?

19 A. I did.

20 Q. And are you saying everybody was laid off
21 or a skeleton staff stayed?

22 A. May I explain?

23 Q. Yeah.

24 A. Okay. We were given direction on April 1st
25 that the jobsite would be shut down by April 15th,

1 and at that time we had to finish a couple concrete
2 pours, safe everything off, and remove all employees
3 from the site.

4 So April 2nd, we started the layoffs. We
5 could not send 500 layoffs to our office in one day,
6 so we phased it out over the next ten days.

7 Q. And -- but didn't you keep materials in the
8 yard?

9 A. I'm sorry, sir, what yard?

10 Q. The yard at the Sphere where you keep
11 materials and equipment.

12 A. We had to -- we were directed to haul
13 everything off the site.

14 Q. Did you actually do it?

15 A. No, sir.

16 Q. Did you leave equipment and materials in
17 the yard?

18 A. Yes.

19 Q. And wasn't -- isn't there the necessity for
20 an employee to be in the yard to make sure those
21 materials aren't tampered with?

22 A. No, sir.

23 Q. So you had nobody watching the materials in
24 the yard?

25 A. Besides MSG Sphere security. There was no

1 **Q. Did you make the decision on which of the**
2 **employees to rehire?**

3 A. I did not make the decision on which. I
4 left that up to my superintendents.

5 **Q. And who made the decision on which**
6 **employees to rehire?**

7 A. For which area, sir?

8 **Q. The laborers.**

9 A. The laborers was done by my
10 superintendents.

11 **Q. I don't know who they are.**

12 **Could you give me a name of who they are?**

13 A. The job was -- it was five jobs in one job.
14 I had David McGrandy on Core D. I had Fernando
15 Gerrirez [phonetic] on Core B. I had Scott Holander
16 on Core C. I had Stephan Taylor on the in board. I
17 had Tony -- I don't remember Tony's last name -- on
18 Area B.

19 Those were the superintendents that made
20 the decision. I just told them how many carpenters
21 and how many laborers they could bring back.

22 **Q. Okay. And how did they decide on how to**
23 **rehire?**

24 MR. ROSENTHAL: Objection, calls for
25 speculation.

1 day if we did that.

2 Q. Was there -- do you know whether M.J. Dean
3 used any sort of seniority system to recall the laid
4 off laborers?

5 A. Seniority?

6 Q. Yes.

7 A. It's -- we don't -- we don't work by
8 seniority.

9 Q. What you're saying is you let your
10 superintendents decide which specific employees to
11 recall, and you're saying you had nothing to do with
12 it?

13 A. That is correct. I picked the
14 superintendents and I let the superintendents pick
15 the employees that were brought back.

16 Q. But you didn't have any input on who they
17 brought back?

18 A. No.

19 Q. And do you know why Parnell Colvin was not
20 rehired?

21 A. No.

22 Q. Did you ever do an investigation or talk to
23 any of the superintendents as to why he wasn't
24 rehired?

25 A. Sir, Parnell was one of 500. We brought

1 200 back. 300 men were let go. I did not talk to
2 the superintendents about who they brought back and
3 why they brought them back.

4 Q. When you got this -- you were aware of this
5 lawsuit before today, correct?

6 A. Yes, sir.

7 Q. Did you ever do any investigation after the
8 lawsuit was filed as to why Parnell was not brought
9 back?

10 A. Again, sir, 300 men were not brought back.

11 Q. But 200 were brought back?

12 A. 200 out of 500.

13 Q. I'm asking a simple question.

14 Do you know why Parnell was not brought
15 back?

16 A. The answer to your question is, no, I do
17 not know.

18 Q. Was Dave Muti one of the superintendents?

19 A. Dave Muti was -- during the shutdown.

20 Q. After the shutdown?

21 A. After the shutdown, yes, sir.

22 Q. Was he involved in deciding who should be
23 rehired?

24 A. No, sir.

25 Q. Why not?

CERTIFICATE OF REPORTER


STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, Jackie Jennelle, RPR, CCR #809, Clark County, State of Nevada, do hereby certify: That I reported the video conference deposition of JOHN THOMASON, commencing on THURSDAY, JULY 29, 2021, at 2:00 p.m.

That prior to being deposed, the witness was duly sworn by me to testify to the truth. That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true and accurate transcription of my said shorthand notes.

I further certify that I am not a relative or employee of counsel, of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

IN WITNESS WHEREOF, I have set my hand in my office in the County of Clark, State of Nevada, this 9th day of August, 2021.



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